



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 8, 1998

Ms. Kristi A. Taylor  
Assistant City Attorney  
Neiman & Barnes, L.L.P.  
P.O. Box 777  
Lewisville, Texas 75067

OR98-1192

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115188.

The Lewisville Police Department (the "department"), which you represent, received a request for offense report numbers 97-02743 and 97-02744, regarding an incident which occurred on September 9, 1997. In response to the request, you submitted to this office for review the records which you assert are responsive. You state that the department has "released to the requestor, . . . , the documents that have been filed with the Lewisville Municipal Court,"<sup>1</sup> as well as "released to the requestor the first page of the arrest report."<sup>2</sup> You assert that the remaining information is excepted from required public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code reads as follows, in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; (2) it is information that deals with the

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<sup>1</sup>We agree that documents which are part of the public record cannot be withheld under section 552.108 of the Government Code. See *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (orig. proceeding).

<sup>2</sup>As you have noted, basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. See Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

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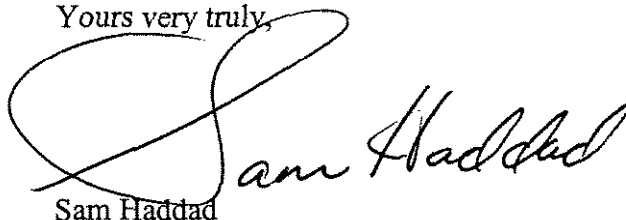
(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Gov't Code § 552.108.

You state section 552.108 is applicable to the submitted information, because "one of these cases has not been prosecuted yet, thus the release of this information could interfere with the prosecution of these offenses." As the requested records relate to a pending criminal investigation, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. Therefore, except as noted above, the remaining information may be withheld pursuant to section 552.108(a)(1). You may choose, however, to release all or part of the information at issue that is not otherwise confidential by law.<sup>3</sup> Gov't Code § 552.007.

As we resolve your request under section 552.108, we need not specifically address your claimed exception under section 552.101 at this time. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad", is written over a large, stylized, looping flourish that starts under the word "Yours" and extends across the signature.

Sam Haddad  
Assistant Attorney General  
Open Records Division

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<sup>3</sup>However, we note that some of the requested information may be confidential. *See* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

SH/rho

Ref: ID# 115188

Enclosures: Submitted documents

cc: Mr. Odie Jim Alexander  
Private Investigator  
Alexander Investigations  
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Carrollton, Texas 75006  
(w/o enclosures)